

STATE OF ARIZONA
FILED

SEP 13 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCEDEPT. OF INSURANCE
BY CO

In the Matter of:

) Docket No. 01A-210-INS

CONTINENTAL CASUALTY COMPANY,
NAIC #20443;) **CONSENT ORDER****Respondent.**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Continental Casualty Company ("Casualty"). The Report of the Examination of the Market Conduct Affairs of Continental Casualty Company, dated November 18, 1999 alleges that Casualty has violated A.R.S. §§20-448.01, 20-461, 20-462, 20-485.01, 20-1110, 20-2104, 20-2106, 20-2110 and Arizona Administrative Codes (A.A.C.) R20-6-801, R20-6-1007, R20-6-1014, R20-6-1015 and R20-6-1203.

Casualty wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Casualty is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Casualty. The on-site examination covered the period from July 1, 1996 through June 30, 1999, and was concluded on November 18, 1999.

Based on the findings the Examiners prepared the "Report of Examination of the

1 Market Conduct Affairs of Continental Casualty Company" dated November 18, 1999.

2 3. The Examiners reviewed all group and individual long-term care
3 advertising used in Arizona during the period of the examination and found Casualty
4 failed to file 14 advertising pieces with the Department prior to their use.

5 4. The Examiners reviewed 18 of 18 contracts with Third Party
6 Administrators active during the period of the examination and found three contracts
7 where Casualty failed to include a provision in three contracts that the insurer shall
8 provide fifteen days notice to the Director of termination or cancellation or any other
9 change in the agreement.

10 5. The Examiners reviewed 13 of 13 underwriting files of Group
11 "Affinity" major medical applications declined, 8 of 8 certificate applications for disability
12 income/business overhead expense insurance declined, 50 of 158 group long-term
13 care applications declined, 50 of 69 group long-term care applications cancelled, one
14 group long-term care policy issued to a group situated in Arizona, 50 of 553 group long-
15 term care applications issued to employees of groups situated outside of Arizona, 45 of
16 1,475 individual long-term care policies issued, 50 of 183 individual long-term care
17 policies declined and 50 of 210 individual long-term care policies terminated without
18 declination during the period of the examination and found as follows:

19 a. Casualty failed to provide 17 applicants with a written notice of the
20 specific reason for an adverse underwriting decision or to advise the applicants that
21 upon written request the person may receive the specific reason in writing.

22 b. Casualty failed to provide a Notice of Insurance Information
23 Practices to 13 applicants.

1 c. Casualty failed to use an Authorization for Release of Information
2 in two applications that specified that the authorization would remain valid for no more
3 than 30 months.

4 d. Casualty failed, where replacement of long-term care insurance
5 was intended, to notify in writing the existing insurer of the proposed replacement
6 within five working days from the date the application was received with 11
7 applications.

8 6. The Examiners reviewed the forms used by Casualty and found as
9 follows:

10 a. Casualty failed to use an HIV-related test consent form with three
11 applications that gave the applicant an option to consent to release information to the
12 applicant's personal physician.

13 b. Casualty failed to include all the required long-term care
14 replacement questions in six applications.

15 7. The Examiners reviewed 49 of 554 paid (FISI) accidental death claims,
16 50 of 110 denied (FISI) accidental death claims, 100 of 4140 "affinity" group medical
17 paid claims and 50 of 1,953 individual long-term care claims paid and denied during
18 the period of the examination and found as follows:

19 a. Casualty failed to send an acknowledgement notice or to make
20 payment to 38 claimants within 10 working days after receiving notice of a claim.

21 b. Casualty failed to advise 59 first party claimants of the acceptance
22 or denial of claims within fifteen working days after receipt of properly executed proofs
23 of loss and failed to notify first party claimants of the Company's reasons or need for
24

1 additional time to investigate the claims.

2 c. Casualty failed to notify 22 first party claimants of the Company's
3 reasons additional time is needed for investigation forty-five days from the date of the
4 initial notification and every forty-five days thereafter.

5 d. Casualty failed to complete investigation of 59 claims within 30
6 days after notification of claim.

7 e. Casualty failed to acknowledge pertinent communications from
8 three claimants within 10 working days when the communication reasonably suggested
9 that a response was expected.

10 f. Casualty failed to indicate in two Authorization to Release Claim
11 Information forms that an individual is entitled to receive a copy of the form.

12 g. Casualty failed to pay interest, at the legal rate from the date
13 claims were received, on 16 claims that were not paid within 30 days after receipt of
14 properly executed proofs of loss.

15 **CONCLUSIONS OF LAW**

16 1. Casualty violated A.R.S. §20-1110(E) and A.A.C. R20-6-1014 by failing to
17 file advertising with the Department of Insurance prior to its use.

18 2. Casualty violated A.A.C. R20-6-801(E)(1) and A.R.S. §20-461(A)(2) by
19 failing to send an acknowledgement notice or to make payment to the claimant within
20 10 working days after receiving notice of a claim.

21 3. Casualty violated A.A.C. R20-6-801(G)(1)(a) and A.R.S. §20-461(A)(5) by
22 failing to notify the first party claimant of the acceptance or denial of the claim within
23 15 working days after receipt of an acceptable proof of loss.
24

1 4. Casualty violated A.A.C. R20-6-801(G)(1)(b) and A.R.S. §20-461(A)(3) by
2 failing to advise first party claimants, within 15 working days after receipt of an
3 acceptable proof of loss, of the reasons why more time was needed to determine if the
4 claim would be accepted or denied, and by failing to notify first party claimants of the
5 Company's reasons additional time is needed for investigation forty-five days from the
6 date of initial notification and every forty-five days thereafter.

7 5. Casualty violated A.A.C. R20-6-801(F) and A.R.S. §20-461(A)(3) by
8 failing to complete the investigation of a claim within 30 days after notification of the
9 claim.

10 6. Casualty violated A.R.S. §20-462(A) by failing to pay interest at the legal
11 rate, from the date the claim was received by the Company, on all claims not paid
12 within 30 days after receipt of an acceptable proof of loss.

13 7. Casualty violated A.A.C. R20-6-801(E)(3) by failing to acknowledge
14 pertinent communications from a claimant within 10 working days when the
15 communication reasonably suggested that a response was expected.

16 8. Casualty violated A.R.S. §20-2110(A) by failing to provide applicants with
17 a written notice of the specific reason for an adverse underwriting decision or to advise
18 the applicant that upon written request the person may receive the specific reason in
19 writing.

20 9. Casualty violated A.A.C. R20-6-1203(C)(7) and A.R.S. §20-448.01(B) by
21 failing to use an HIV-related test consent form that gives the applicant an option to
22 consent to release information to the applicant's personal physician.

23 10. Casualty violated A.R.S. §20-485.01(B) by failing to include a provision
24

1 that the insurer shall provide fifteen days notice to the Director of termination or
2 cancellation or any other change in the agreement.

3 11. Casualty violated A.A.C. R20-6-1007(A) by failing to use an application
4 for long-term care insurance that included all of the required replacement questions.

5 12. Casualty violated A.R.S. §20-2104(A)(1) by failing to provide a Notice of
6 Insurance Information Practices to applicants no later than at or prior to the time the
7 collection of personal information is initiated.

8 13. Casualty violated A.R.S. §20-2106(7)(a) by failing to use with an
9 application for coverage an Authorization to Release Claim information which specifies
10 that the authorization remains valid for 30 months from the date the authorization is
11 signed.

12 14. Casualty violated A.R.S. §20-2106(9) by failing to advise individuals that
13 they are entitled to receive a copy of the Authorization to Release Claim Information.

14 15. Casualty violated A.A.C. R20-6-1007(E) by failing to notify the existing
15 insurer, in writing, of the proposed replacement of long-term care insurance within five
16 working days from the receipt of an application indicating replacement.

17 16. Grounds exist for the entry of the following Order, in accordance with
18 A.R.S. §§ 20-220, 20-456, 20-1691.07 and 20-2117.

19 **ORDER**

20 **IT IS ORDERED THAT:**

21 1. Continental Casualty Company shall not:

22 a. Fail to file advertising with the Department of Insurance prior to its
23 use.

1 b. Fail to send an acknowledgement notice or make payment to
2 claimants within 10 working days after receiving notice of a claim.

3 c. Fail to accept or deny claims within 15 working days after receipt
4 of proof of loss and failing to advise claimants of the reasons why more time is needed
5 to determine if the claim would be accepted or denied.

6 d. Fail to send claimants a letter setting forth the reasons additional
7 time is needed for investigation forty-five days from the date of the initial notification
8 and every forty-five days thereafter.

9 e. Fail to complete investigation of claims within 30 days after receipt
10 of notification of claim.

11 f. Fail to pay interest, at the legal rate from the date a claim is
12 received, where the claim is not paid within 30 days after receipt of acceptable proofs
13 of loss.

14 g. Fail to acknowledge pertinent communications from claimants
15 within 10 working days when the communication reasonably suggests that a response
16 is expected.

17 h. Fail to provide applicants with written notice of the specific reason
18 for an adverse underwriting decision or to advise the applicant that upon written
19 request the person may receive the specific reason in writing.

20 i. Fail to use an HIV-related test consent form that gives the
21 applicant the option to consent to release information to the applicant's personal
22 physician.

23 j. Fail to include a provision that the insurer shall provide fifteen days
24

1 notice to the Director of termination or cancellation or any other change in an
2 agreement with a third party administrator.

3 k. Fail to use an application for long-term care insurance that
4 includes all of the required replacement questions.

5 l. Fail to provide a Notice of Information Practices to an applicant no
6 later than at or prior to the time the collection of personal information is initiated.

7 m. Fail to use an authorization in connection with an application for
8 insurance that specifies that the authorization remains valid for 30 months from the
9 date signed.

10 n. Fail to use an HIV-related test consent form that is in a form as
11 prescribed by the Director.

12 o. Fail to notify the existing insurer, in writing, of the proposed
13 replacement of long-term care insurance within five working days from the receipt of an
14 application indicating replacement.

15 p. Fail to advise individuals that they are entitled to receive a copy of
16 the Authorization to Release Claim Information.

17 2. Within 90 days of the filed date of this Order, Casualty shall submit to the
18 Arizona Department of Insurance, for approval, evidence that the corrections have
19 been implemented and communicated to the appropriate personnel regarding all of the
20 items mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence
21 of corrective action and communication thereof includes, but is not limited to, memos,
22 bulletins, E-mails, correspondence, procedures manuals, print screens and training
23 materials.

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1 3. Within 90 days of the filed date of this Order, Casualty shall pay interest
2 to those claimants identified in Exhibit A of this Order. Interest shall be calculated at
3 the rate of ten percent per annum from the date the proof of loss was received to the
4 date of payment.

5 4. Each refund identified in Paragraph 3 of the Order section of this Consent
6 Order shall be accompanied by a letter in a form previously approved by the Director.

7 5. The Department shall be permitted, through authorized representatives,
8 to verify that Casualty has complied with all provisions of this Order.

9 6. Casualty shall pay a civil penalty of \$22,000.00 to the Director for deposit
10 in the State General Fund in accordance with A.R.S. §20-220(B). The civil penalty
11 shall be provided to the Market Conduct Examinations Section of the Department prior
12 to the filing of this Order.

13 7. The Report of Examination of the Market Conduct Affairs of Continental
14 Casualty Company as of November 18, 1999, including the letter submitted in
15 response to the Report of Examination, shall be filed with the Department after the
16 Director has filed this Order.

17 DATED at Phoenix, Arizona this 13th day of September, 2001.

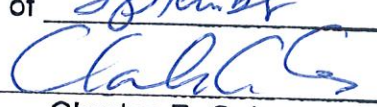
18 
19 Charles R. Cohen
20 Director of Insurance
21
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23
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EXHIBIT A**Failure to Pay Interest at the Legal Rate
For Claims Not Paid Within 30 Days After Receipt Of Proof Of Loss**

Claim Number	Date Claim Received	Date Proof of Loss Recv'd	Date Claim Paid	Number of Days	Amount Due
94-94586	12/8/97	1/16/98	2/24/98	78	\$10.68
47-00909	9/28/98	12/8/98	1/19/99	113	\$30.96
47-01766	12/7/98	1/4/99	2/9/99	64	\$236.71
47-00197	10/21/98	10/21/98	7/6/99	258	\$3,004.82
973532035	12/1/97	12/19/97	2/13/98	56	\$9.82
3700418249	5/23/97	5/23/97	12/9/97	200	\$6.10
3700418249	3/7/97	3/7/97	12/9/97	277	\$6.30
7003955101	9/19/97	9/19/97	11/5/97	47	\$10.70
8000158601	12/30/97	12/30/97	5/20/98	141	\$22.62
9 Claims				Total Due	\$3,338.71

CONSENT TO ORDER

1. Continental Casualty Company has reviewed the foregoing Order.

2. Continental Casualty Company admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. Continental Casualty Company is aware of the right to a hearing, at which it may be represented by counsel, present evidence, and cross-examine witnesses. Continental Casualty Company irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.

4. Continental Casualty Company states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

5. Continental Casualty Company acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. Sandra M. Ricketts, who holds the office of Vice President & Sr Financial Officer of Continental Casualty Company is authorized to enter into this Order for it and on its behalf.

August 28, 2001
Date

By:

~~Continental Casualty Company~~

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1 **COPY of the foregoing mailed/delivered**
2 **this 13th day of September , 2001, to:**

3
4 Sarah Begley
5 Deputy Director
6 Mary Butterfield
7 Assistant Director
8 Consumer Affairs Division
9 Paul J. Hogan
10 Chief Market Conduct Examiner
11 Market Conduct Section
12 Deloris E. Williamson
13 Assistant Director
14 Rates & Regulations Division
15 Steve Ferguson
16 Assistant Director
17 Financial Affairs Division
18 Alexandra Shafer
19 Assistant Director
20 Life and Health Division
21 Nancy House
22 Chief Financial Examiner
23 Terry L. Cooper
24 Fraud Unit Chief

15 DEPARTMENT OF INSURANCE
16 2910 North 44th Street, Second Floor
17 Phoenix, AZ 85018

17 Continental Casualty Company
18 Ms. Nancy Komessar, Examination Coordinator
19 CNA Corporate Compliance, 24 S
20 CNA Plaza
21 Chicago, IL 60685-0001

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